

I N D E XCity Council - September 25, 1969 - 4:00 P.M.

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Adjourned at 6:35 P.M.

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September 25, 1969

MINUTES OF AN ADJOURNED REGULAR
MEETING OF THE TORRANCE CITY COUNCIL

OPENING CEREMONIES:

1. CALL TO ORDER:

The Torrance City Council convened in an adjourned regular meeting Thursday, September 25, 1969, at 4:00 P.M. in the Council Chambers at Torrance City Hall.

2. ROLL CALL:

Responding to roll call by Deputy City Clerk Moss were: Councilmen Beasley, Johnson, Miller, Sciarrotta, Uerkwitz, Wilson, and Mayor Isen. Absent: None.

Also present: City Manager Ferraro, City Attorney Remelmeyer, Deputy City Clerk Moss, and City Treasurer Rupert. (City Clerk Coil arrived at the meeting at 5:00 P.M.)

3. FLAG SALUTE:

At Mayor Isen's request, Mr. Jerry Boyd led in the salute to the flag.

4. UNIFORM ALLOWANCE - SAFETY EMPLOYEES.

No material available, held.

5. PROPERTY ACQUISITION - Purchase of property located at 23125 Arlington Avenue which the City needs for the opening of 232nd Street.

RESOLUTION approving right-of-way contract.

At the request of Mayor Isen, Deputy City Clerk Moss assigned a number and read title to:

RESOLUTION NO. 69-241

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TORRANCE AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AND ATTEST THAT CERTAIN RIGHT-OF-WAY CONTRACT BETWEEN THE CITY AND EDWARD I. RAPHAEL, JACK N. DABBS AND MARGARET DABBS.

Councilman Johnson moved for the adoption of Resolution No. 69-241. His motion, seconded by Councilman Sciarrotta, was unanimously approved by roll call vote.

(Considered, out of order, at this time:)

7. Policy Determination re: DEL AMO FASHION SQUARE SHOPPING CENTER.

Mr. Harry Gorman was present on this matter, and introduced his associates for the formal presentation of their request, starting with a display of renderings of the proposed development.

The architect, Mr. Walter Smith from the firm of Burke, Kober, Nicolais, and Archuleta, further described the super shopping center (a "super" shopping center implies, in the trade, three or more major department stores) that is expected to gross \$50 million dollars per year in sales which relates directly to some of the considerations in the way of the off-site development. Mayor Isen interrupted at this point to note his feelings in reference to the sales tax approach, deeming it no inducement to put in private streets in interior shopping centers -- Mayor Isen added that every time the Legislature meets the attempt is made to change the formula from the place where the sales tax is expended and the authority to receive it, to have it equalized, as is the gas tax, all over the State; the formula is constantly subject to change and sales tax predictions are without meaning. Whatever is obtained by way of sales tax, Mayor Isen continued, will provide improvements that the City can do in the exterior parts of this area to be of assistance, but unless the proponent proposes to underwrite for an undetermined number of years the recovery on sales tax, this point is without merit.

Mr. Smith then referred to the off-site improvements -- specifically, Hawthorne Boulevard, Carson Street, and Madrona -- and asked that the Council consider the validity of providing the roadway along the north side of the center. Mayor Isen outlined other large developments in this area, adding that no one has ever come to the City for internal assistance, and that they have enjoyed considerable success; it is most unlikely that this precedent would be broken.

Continuing, Mr. Smith related estimates pertaining to Hawthorne, Carson, and Madrona, and advised that meetings with City Staff and the railroad have resulted in agreement by the railroad into lowering the tracks in the north roadway section to Carson; they will also be moved over approximately 14 ft. to the west, and will serve as an interim measure until their removal, and at the same time guarantee major tenants that the traffic will be accommodated. City Manager Ferraro, at Mayor Isen's request, expanded on the access problems on Madrona, the lowering of the tracks and moving them west which would allow Madrona to be widened which is very compatible with what is proposed by the City. Discussion followed on the Madrona problems and the possibility, if any, of complete removal of the railroad tracks.

In an attempt to expedite this matter and condense the many considerations, Mayor Isen, reflecting the Council's thinking, advised that there will be 100% cooperation within consistent City policies now established throughout the City in connection with signalization, road improvement, curbs, gutters, etc. -- anything further would be a matter of negotiation with Administration, Engineering and Staff; should there be projects completely in the public interest the Council would weigh them. Mayor Isen acknowledged the wonderful project proposed, and that every cooperation would be extended in areas where possible to do so. Councilman Beasley also elaborated on the ability of the City to assist in this undertaking, an obligation to do so, in fact, in view of its meaning to Torrance.

City Manager Ferraro, with the aid of charts prepared for this purpose, reviewed the financial aspects, work categories, and necessary renovations, as well as possible negotiable items such as traffic signals, and putting storm drains on the master plan.

MOTION: Councilman Beasley moved that the subject matter be referred to Staff to be worked out in accordance with our present laws and present policies, and to do what can be done on off-site preparation of the shopping center, in line with discussion of policy this date. The motion was seconded by Councilman Uerkwitz, and there were no objections.

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The hour being 5:05 P.M., Mayor Isen ordered a 5-minute recess, to be followed by an Executive Session re: Columbia Park Appraisers (agenda item #6). The Council returned at 5:30 P.M.

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6. COLUMBIA PARK APPRAISERS.

MOTION: Councilman Beasley moved that the firm of Morgan and Associates, and one other firm to be selected by the City Attorney later, will be the appraisers for the Columbia Park project at fees which will be submitted to the Council at a later date, to be approved by the Council. The motion was seconded by Mayor Isen, and roll call vote was unanimously favorable.

ORAL COMMUNICATIONS:

8. Councilman Wilson reported that the Community Development Committee met regarding a recommendation of the Citizens' Advisory Committee and the Planning Commission in reference to a Town Hall Meeting on Community Affairs. They have requested that a letter from the Mayor, with the approval of the Council, be sent to KNBC in order to take advantage of attendant publicity which they will provide in sponsoring this Town Hall with the City. Dr. Wilson further advised that the date for this event is November 13th at the Recreation Center. Councilman Wilson then MOVED that the Council support the subject meeting, and that the requested letter be sent. The motion was seconded by Councilman Sciarrotta, and there were no objections.

9. Mr. Dale Liston, representing Mr. Dan Butcher, was present to resume the discussion on the extensive oil tank problems in connection with his subdivision which originated at the September 23rd Council meeting. Mr. Liston advised that he had conferred with Mr. George Peckham, and there is no way in which the tank may be feasibly purchased to permit development of the two lots -- the price for the tank and the well was \$6500, from this Mr. Peckham would take only the things that are good from the well, and it would be necessary for Mr. Butcher to remove the well and the tank and cap

it off -- the land is owned by another party and is an entirely different negotiation.

At the request of Councilman Uerkwitz, City Attorney Remelmeyer advised that Section 15.202 of the Fire Code sets forth the table, and subsection c of this Section gives the Fire Chief discretion under certain circumstances to permit a tank or building within that distance, provided that, using that criteria, he determines that it is not a fire hazard; presumably the Fire Chief has made that determination.

Fire Chief Lucas responded, stating that subsection c does allow a discretionary variance where topography, type of structure, use of structure, type of tanks, and protection for the tanks are all taken into consideration and, therefore, the hazard is deemed to be reduced. In the subject case, Chief Lucas continued, the topography flows northerly towards the lot in question so this was not of much value. The tank itself is a standard crude tank in the field -- it has no auxiliary protection whatsoever -- it does not have a fixed foam system nor does it have a floating roof.

Continuing, Chief Lucas pointed out that the proposed structure is a Type 5 single-family residence -- and occupancy in a home differs from a commercial building occupied by day and vacant at night in that in a residence men, women, and children are sleeping at night and would be without protection.

Mayor Isen stated that he was unimpressed with the above, and inquired why the Chief did not put a red tag on the residence just sold within 10 ft. of a tank at Sonoma and Maple, now unoccupied -- an equal peril is presented by this, with the tank immediately located by a bedroom window to the west.

Discussion became somewhat spirited when it developed that the above house had been purchased by City Manager Ferraro through Councilman Miller, it being noted that the house had been built in 1956 as opposed to the vacant land situation faced by Mr. Butcher. Mayor Isen maintained that equal, if not more, hazards are present for the existing vacant house, and there is a need for consistency -- if there are empty residences, they are the same as empty lots; he offered a MOTION that the Fire Chief red tag every unoccupied residence which is located within illegal distances of tanks. The motion was seconded by Councilman Beasley.

The circumstances of the Butcher property were reviewed and the series of events which have progressed to this stalemate, as were possible avenues of relief, with Mr. Liston again describing the intricacies of removing an oil tank were it even financially feasible.

The "red tag" motion failed to carry, with a tie vote as follows:

AYES: COUNCILMEN: Beasley, Johnson, and Mayor Isen.
 NOES: COUNCILMEN: Sciarrotta, Uerkwitz, and Wilson.
 ABSTAIN: COUNCILMEN: Miller (financial interest).

It was the comment of Councilman Wilson, at the time of his "no" vote, that the Council is confusing issues here, this being sort of ex post facto; these are two different situations, and deemed the motion ridiculous.

Councilman Sciarrotta, following further discussion of inequities and other occasions of Council relief in extenuating circumstances, MOVED that, due to the circumstances in the Butcher matter and due to the fact that these people have obtained their commitments and have started to work, and the further fact that the City has erred, that relief be given on the subject lot which will permit Mr. Butcher to build on that lot. The motion was seconded by Councilman Beasley, but failed to carry with roll call vote as follows:

AYES: COUNCILMEN: Beasley, Sciarrotta.
 NOES: COUNCILMEN: Miller, Uerkwitz, Wilson.
 ABSTAIN: COUNCILMEN: Johnson (may or may not have a financial interest in this specific situation).
 Mayor Isen (professional employment).

Councilman Sciarrotta reiterated his concern for the moral obligation in this case, acknowledging admiration for the Fire Chief for holding to what he believes right, but certainly the City has erred and relief seems appropriate.

Mr. George Kurtz, 2211 Torrance Boulevard, pointed out that many problems have been created by the proposed Ordinances A and B. Interrupting, Mayor Isen commented that at the time Ordinance B was proposed and presented on September 23rd, he was unaware that "special legislation", either wittingly or unwittingly, was represented in that it applies only to homes existing now; Mayor Isen added that he will vote "no" at the second reading. Further, it seems to the Mayor that Administration and the City Attorney have to devise a method to give all property owners relief, which would be against Mr. Kurtz' clients.

At Councilman Uerkwitz' question, Mayor Isen confirmed that Ordinance B affects only existing structures, as did City Attorney Remelmeyer who added that it is not "special legislation" in the legal sense of the word but happens to pertain to a general class, namely, existing fire hazards. A further reference to "special legislation and Mr. Ferraro's house" brought forth a vigorous denial from both Mr. Remelmeyer and Mr. Ferraro.

Reluctance to approve Ordinance B at the second reading was also expressed by Councilmen Beasley and Uerkwitz, certainly in its present form. City Attorney Remelmeyer commented that the solution to this entire problem is extraordinarily complicated and cannot be solved overnight -- Ordinance B is a partial solution and should not be permitted to go down the drain simply because it's not a complete solution.

At this point Mayor Isen announced that it may be possible for him to change his vote on the earlier motion, dependent upon interpretation by the City Attorney of his employment with Mr. Butcher: He has been employed by Mr. Butcher as his attorney on one special project which is outside the City; should he abstain or does he have a right to vote, was Mayor Isen's question? City Attorney Remelmeyer responded that the Mayor would have a right to vote.

Councilman Johnson likewise sought interpretation of his right to vote, stating that he works for Fredericks Realty, he did not sell the subject property -- he was one of the chief inducers in convincing Dan Butcher to develop a relatively low priced house in the Southeast

Torrance area; there has been no commission whatsoever. He has, however, been involved with the project as a project and more or less in return there is a general agreement (though nothing is specific as yet) that he will receive the listings on those properties -- which represents his financial involvement. Councilman Johnson continued, stating that he has already notified Mr. Liston that he will refuse to accept the listing on either of those lots in question -- to the City Attorney, is he in conflict? City Attorney Remelmeyer answered no, not unless Mr. Johnson is receiving other remunerations, has received, or will receive such remunerations as a result of his vote; if not, based on the facts furnished, there is no conflict.

Councilman Johnson further amplified his position -- he is a realtor with Fredericks Realty, and any money that he would receive would result from the sale of the houses; if he has the listings the listing commission would come to his company and partly distributed to him and partly retained by the company, with the selling commission going to whomever sells the house, as is the normal procedure.

In reference to the two lots close to the tank (one lot being unbuildable in any event) Councilman Johnson reaffirmed the fact that he will not, under any circumstances, nor will his company, accept the listing for the house on the lot in question.

Continuing, Mr. Johnson advised that he has another deal or two in escrow on other properties completely away, without any connection whatsoever, involving only the design of the house.

City Attorney Remelmeyer reiterated that, in his opinion, there is no conflict of interest on this particular problem, and that Councilman Johnson may vote on the motion.

Directed to Councilman Johnson by Mr. George Kurtz was the comment that he, Mr. Kurtz, represents the Rippey family, and referred specifically to an escrow for the sale of property in which the Rippey family has an interest to Dan Butcher, in which Mr. Johnson is the real estate broker. (Interrupting, Councilman Johnson clarified that he is not a realtor nor a real estate broker; he is a salesman.) Councilman Johnson then replied that the reference is to a 12 lot subdivision on Walnut at 231st which does not involve a tank problem in any manner; this is a straight out-and-out land sale of three parcels to Mr. Rippey for the purpose of developing a subdivision; further, he works ^{as} a free agent, receiving no money whatsoever until such time as a sale is made; Mr. Butcher pays not one dime, the commission is paid by others, and is a matter completely removed from these considerations.

Councilman Sciarrotta's motion was restated, and amended as follows: "That, due to the circumstances in the Butcher matter and due to the fact that these people have obtained their commitments and have started to work, and the further fact that the City has erred, that relief be given on the subject lot which will permit Mr. Butcher to build on that lot, and that the position of financial loss which Mr. Liston referred to has directly resulted because of errors by the City through management, and that the relief be granted."

At Mayor Isen's request, Mr. Dale Liston, General Manager authorized to act for Mr. Butcher completely and without any advice or consultation, stipulated that, in the event this motion is carried, Mr. Butcher would release the City from any possibility of any loss, financially or otherwise, as a result of the delays he has had as the result of a building permit having been issued to him prior to this time in connection with the subdivision, and absolve the City from any possible liability, the same as the release of all claims, generally and specifically.

Considerable disturbance at what has transpired was expressed by Councilman Wilson -- in the event the two abstentions are changed, the Council will be placed in a very precarious position; there can be a tremendous loss of public confidence and trust in the Council -- this is "special legislation", in Councilman Wilson's opinion.

Councilman Sciarrotta stated that his motion stands, for the reasons earlier stated that the City has erred, there is a responsibility in that this matter has been allowed to go this far, with no reflection whatsoever on the Fire Chief.

A request from Building and Safety Director McKinnon that, in view of the position in which he is now placed, and inasmuch as the City Attorney may have to defend him in an action as called for in the City Code - in case such action is taken against him for making inspections - that the City Attorney advise him if he can legally make those inspections, if such a motion is passed? Mr. McKinnon's next question was can the Council amend or give relief to an individual without changing the Code so that it applies to everyone in a similar circumstance? Without such clearance, Mr. McKinnon feels he cannot make this inspection, otherwise he could be personally involved in a lawsuit.

The correctness of Building and Safety Director McKinnon's statements was confirmed by Mr. Kurtz -- passage of the motion in this manner will put the Council in the position of going against its own Code. Mr. Kurtz is in complete agreement with both the position of Councilman Wilson and Mr. McKinnon.

City Attorney Remelmeyer stated that, without the benefit of research, it appears doubtful to him that the Council has the right to approve a variance to the Fire Code -- Ordinance A would have taken care of the situation. As to financial liability to Mr. McKinnon for obeying a Council order is something that Mr. Remelmeyer would have to research; it would be his guess that the Council does not have authority to grant a permit in violation of the Code.

With the many ramifications now presented, and the uncertainty of ground, Councilman Sciarrotta rescinded his motion.

Discussion followed on the apparently overwhelming problems now confronted. It was decided to resort to Ordinance A, following which Councilman Beasley withdrew his second to Mr. Sciarrotta's motion.

At the request of Mayor Isen, City Clerk Coil assigned a number and read title to:

ORDINANCE NO. 2030

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TORRANCE AMENDING THE PROVISIONS OF TABLE 15.202 OF THE UNIFORM FIRE CODE AND TABLE 9 1B OF THE UNIFORM BUILDING CODE COVERING THE LOCATION OF TANKS FOR THE STORAGE OF CRUDE PETROLEUM AND OTHER FLAMMABLE LIQUIDS.

Councilman Beasley moved for approval of Ordinance No. 2030 at its first reading. His motion was seconded by Councilman Johnson, Mr. Johnson first ascertaining from the City Attorney that he could vote on this matter.

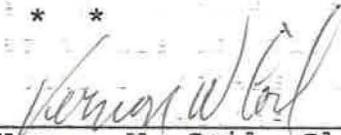
At the request of Councilman Wilson, Fire Chief Lucas spoke to the above action: It will further weaken a Code that is already sub-standard by AIA grading schedule and the majority of the communities that similar installations - tanks, wells, etc. Chief Lucas added that he could not state that this would add "x" number of deficiency points to Torrance, but assured the Council that it would add something. Mayor Isen responded with the comment that this seems unlikely with some 50 violations all over the City, and urged that, if the ordinance is passed, the urgency of this situation be recognized and that there be much dedication to work out the entire problem.

THE MOTION FAILED TO CARRY, with roll call vote as follows:

AYES: COUNCILMEN: Beasley, Johnson.
NOES: COUNCILMEN: Miller, Sciarrotta, Uerkwitz, Wilson.
ABSTAIN: COUNCILMEN: Mayor Isen.

The meeting was regularly adjourned at 6:35 P.M.

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Vernon W. Coil, Clerk of the
City of Torrance, California

APPROVED:



Mayor of the City of Torrance